

REPORT OF THE COMMITTEE ON CONTRACT COMPLIANCE

February 11, 2009

The Honorable,
The Board of Commissioners of Cook County

ATTENDANCE

Present: Chairman Maldonado, Commissioners Butler, Gorman, Peraica, Sims and Steele (6)

Absent: Vice Chairman Silvestri, Commissioners Goslin and Moreno (3)

Also Present: Betty Hancock-Perry – Director, Department of Contract Compliance; Colette Holt – Attorney and Consultant on the County's MBE/WBE Construction Contracts Ordinance; Paul Cerpa – Executive Director, Hispanic American Construction Industry Association; LaVerne Hall – Chair, Diversity Action Committee; Florence Cox – Executive Director, Black Contractors United, Inc.; Perry Nakachi – President, Association of Asian Construction Enterprises; Sumi Cho – Professor of Law, DePaul College of Law; Mary Kay Minaghan – Legislative Consultant, Women Construction Owners and Executives

Ladies and Gentlemen:

Your Committee on Contract Compliance of the Board of Commissioners of Cook County met pursuant to notice on Wednesday, February 11, 2009 at the hour of 1:00 P.M. in the Board Room, Room 569, County Building, 118 North Clark Street, Chicago, Illinois.

Your Committee has considered the following items and upon adoption of this report, the recommendations are as follows:

297539 AN ORDINANCE ELIMINATING THE DEPARTMENT OF CONTRACT COMPLIANCE AND HAVING THE OFFICE OF THE PURCHASING AGENT ASSUME THE OFFICE OF CONTRACT COMPLIANCES DUTIES AND STAFF (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Elizabeth "Liz" Doody Gorman, County Commissioner.

The following is a synopsis of the Proposed Ordinance Amendment:

PROPOSED ORDINANCE AMENDMENT

**AN ORDINANCE ELIMINATING THE DEPARTMENT OF CONTRACT COMPLIANCE
AND HAVING THE OFFICE OF THE PURCHASING AGENT ASSUME
THE OFFICE OF CONTRACT COMPLIANCES DUTIES AND STAFF**

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BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 2 Administration, Section 2-401, Chapter 34 Finance, Sections 34-151, 34-175 through 34-303, and 34-351 through 34-356, of the Cook County Code are hereby amended as follows:

DIVISION 3. BUREAU OF FINANCE

Sec. 2-401. Bureau established.

DIVISION 2. CONTRACT PROCUREMENT

Sec. 34-151. Purchase procedures and competitive bidding.

**DIVISION 6. MINORITY-AND WOMEN-OWNED
BUSINESS ENTERPRISES**

Sec. 34-275. Short title.

Sec. 34-276. Purpose; policy and findings.

Sec. 34-277. Definitions.

Sec. 34-278. Staffing and responsibilities for affirmative action.

Sec. 34-279. Application of division.

Sec. 34-280. Program goals.

Sec. 34-281. Implementation.

Sec. 34-282. Professionals and consulting services and sole source agreements.

Sec. 34-283. Other Federal and State regulations.

Sec. 34-284. Preference to residents of County.

Sec. 34-285. Reporting and review.

Sec. 34-286. Title.

Sec. 34-287. Recitals.

Sec. 34-288. Findings of discrimination.

Sec. 34-289. Public purpose.

Sec. 34-290. Applicability.

Sec. 34-291. Severability.

Sec. 34-292. Definitions.

Sec. 34-293. Program administration.

Sec. 34-294. Race- and gender-neutral measures to ensure equal opportunities for all contractors and subcontractors.

Sec. 34-296. Annual aspirational goals.

Sec. 34-297. Project specific goals.

Sec. 34-298. Counting MBE and WBE participation.

Sec. 34-299. Contract pre-award compliance procedures.

Sec. 34-300. Contract administration procedures.

Sec. 34-301. Sanctions and penalties.

Sec. 34-302. Interim program review and sunset.

Sec. 34-303. Effective date.

DIVISION 9. RE-ENTRY EMPLOYMENT/BID INCENTIVE

Sec. 34-351. Re-entry employment committee.

Sec. 34-352. Bid incentive.

Sec. 34-353. Earned credits.

Sec. 34-354. Contractor's records.

Sec. 34-355. Review of contract performance.

Sec. 34-356. Rules.

***Referred to the Committee on Contract Compliance on 12-03-08.**

297540

A RESOLUTION CONSOLIDATING VARIOUS GOVERNMENTAL OPERATIONS BY COMBINING THE OFFICE OF CONTRACT COMPLIANCE WITH THE OFFICE OF THE PURCHASING AGENT (PROPOSED RESOLUTION). Submitting a Proposed Resolution sponsored by Elizabeth "Liz" Doody Gorman, County Commissioner.

PROPOSED RESOLUTION

**A RESOLUTION CONSOLIDATING VARIOUS GOVERNMENTAL
OPERATIONS
BY COMBINING THE OFFICE OF CONTRACT COMPLIANCE
WITH THE OFFICE OF THE PURCHASING AGENT**

WHEREAS, in an effort to help resolve the FY 2008 budget crisis, a resolution consolidating certain government operations was introduced at the February 20, 2008 meeting of the Cook County Board of Commissioners; and

WHEREAS, during these tough economic times, the need to streamline County operations still exists as the Board of Commissioners prepares to address the FY 2009 budget; and

WHEREAS, the Purchasing Agent is the chief County official with the charge of procuring quality goods and services for Cook County agencies at the best market value, making certain that vendors comply with all of the requirements of the Procurement and Contracts Code and recommending to the County Board which vendors should be awarded contracts based on their bids and on meeting all the required criteria; and

WHEREAS, one of the major criterion in determining which vendors should be awarded contracts is compliance with the Minority and Women Owned Business Enterprises division of the Procurement and Contracts Code; and

WHEREAS, compliance with the County's MBE/WBE ordinance is the only criterion, in the County's contract procurement process, which is administered by a County department other than the Office of the Purchasing Agent; and

WHEREAS, the Purchasing Agent should have the responsibility of making certain that contracts are fulfilled appropriately and that vendors meet all of the requirements of the Procurement and Contracts Code; and

WHEREAS, it is redundant to have two departments with such similar responsibilities; and

WHEREAS, other large governmental bodies, such as the City of Chicago; Orange County, California; Hennepin County, Minnesota, throughout the United States, have only one department administering all of these functions; and

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WHEREAS, it would be more cost efficient for the Office of Contract Compliance to be merged into the Office of the Purchasing Agent.

NOW, THEREFORE, BE IT RESOLVED, that the Office of Contract Compliance is hereby dissolved and the duties of said office shall be transferred to the Office of the Purchasing Agent; and

BE IT FURTHER RESOLVED, that the employees of the Office of Contract Compliance shall now report to the Purchasing Agent.

***Referred to the Committee on Contract Compliance on 12-03-08.**

Chairman Maldonado delivered the following opening remarks:

Today we will consider a proposed ordinance sponsored by Commissioner Gorman which seeks to eliminate the Office of Contract Compliance and transfer its duties and staff to the Office of the Purchasing Agent.

The Committee selected today's date as an accommodation to Commissioner Gorman's request to hold this hearing as early as possible from the date she introduced the ordinance but immediately after we thought the Committee on Finance would take a vote on the 2009 budget. As you know, that vote took place last night so we could not have guessed today's date for this hearing any better than we did.

Nevertheless, Commissioner Gorman sent me a letter two days ago, requesting that the Committee hearing be deferred because, and I quote, "It has been brought to my attention that there may be investigations concerning certain contracts in the Contract Compliance Department."

In speaking with the Inspector General about the allegation, Mr. Blanchard stated that the ordinance that directs his role as Inspector General prohibits him from either acknowledging or denying the existence of any investigation. However, he clearly stated that his Office had no objections to proceed with the hearing.

Moreover, let it be clear that the Office of Contract Compliance does not award contracts. This is the exclusive role of the Office of the Purchasing Agent. Therefore, the implication in Commissioner Gorman's letter that the Office of Contract Compliance is under investigation concerning certain contracts it awarded is, at the very least, a misguided allegation.

Ultimately, I am convinced that the bonafide MBE/WBE community will welcome any investigation that would eliminate any possible wrong doing that would hurt the viability of this essential program and therefore the preservation of the minority business community of Cook County.

Yet, whether the Director of Contract Compliance, Ms. Betty Hancock-Perry, or the Inspector General, Mr. Patrick Blanchard, wishes to make any statement about Commissioner Gorman's allegation is up to them.

However, as Chairman of this Committee, I will not allow the hearing to deviate from the subject matter before us for consideration. That is, to deliberate on the elimination of the Office of Contract Compliance. The MBE and WBE community deserves no less.

To that end, we have assembled a number of witnesses, all experts in this area, from whom we will hear their perspectives on the proposed ordinance during the hearing. The Chair also extended the same courtesy to the sponsor, Commissioner Gorman, to invite witnesses

But before we start with the invited witnesses and the public, let me set forth the procedures I think we should follow:

- 1) We will hear from the sponsor of the Ordinance with her opening remarks and description of the Ordinance.
- 2) We will then hear from the Director of Contract Compliance, Betty Hancock-Perry and her perspective.
- 3) We will hear from the invited witnesses, allowing questions from the members.
- 4) The Committee will debate.
- 5) The public will testify.
- 6) A vote will be taken.

Commissioner Gorman delivered opening remarks. (See attached written statement.)

The following guest speakers delivered remarks:

1. Betty Hancock-Perry – Director, Department of Contract Compliance
2. Colette Holt – Attorney and Consultant on the County's MBE/WBE Construction Contracts Ordinance
3. Paul Cerpa – Executive Director, Hispanic American Construction Industry Association
4. LaVerne Hall – Chair, Diversity Action Committee
5. Florence Cox – Executive Director, Black Contractors United, Inc.
6. Perry Nakachi – President, Association of Asian Construction Enterprises
7. Sumi Cho – Professor of Law, DePaul College of Law
8. Mary Kay Minaghan – Legislative Consultant, Women Construction Owners and Executives

The floor was opened for debate.

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Chairman Maldonado asked the Secretary to the Board to call upon the registered public speakers, in accordance with Cook County Code, Sec. 2-108(dd):

1. George Blakemore – Concerned Citizen
2. James Huckabee – Vice President, Star Detective and Security Agency
3. Sheila Hill – President, Chicago Minority Business Development Council
4. Valerie O'Donnell - PII

Commissioner Butler, seconded by Commissioner Steele, moved to reject Communication Nos. 297539 and 297540. The motion carried. Commissioner Gorman voted no.

Commissioner Butler proposed to vote separately on each Item. Chairman Maldonado indicated that he would entertain a motion to reconsider.

Commissioner Butler, seconded by Commissioner Steele, moved to reconsider the vote. The motion carried.

Commissioner Butler, seconded by Commissioner Steele, moved to reject Communication No. 297539. The motion carried. Commissioner Gorman voted no.

Commissioner Butler, seconded by Commissioner Steele, moved to reject Communication No. 297540. The motion carried. Commissioner Gorman voted no.

Commissioner Steele moved to adjourn the meeting, seconded by Commissioner Sims. The motion carried and the meeting was adjourned.

**YOUR COMMITTEE RECOMMENDS THE FOLLOWING ACTIONS
WITH REGARD TO THE MATTERS NAMED HEREIN:**

Communication No. 297539
Communication No. 297540

Rejected
Rejected

Respectfully submitted,
Committee on Contract Compliance

Roberto Maldonado, Chairman

Attest:

Matthew B. DeLeon, Secretary

*The audio recording for this meeting is available from the Office of the Secretary to the Board, 118 North Clark Street, Room 567, Chicago, IL 60602.